



LARSON NEWMAN ABEL POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

COPY MAILED

OCT 21 2008

OFFICE OF PETITIONS

In re Application of
Eugene A. Pruss et al.
Application No. 10/645,305
Filed: August 21, 2003
Attorney Docket No. 1035-BN4126

ON PETITION

This is a decision in response to the petition filed March 24, 2008, and supplemented August 14, 2008, under 37 CFR 1.181(b) to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before December 26, 2007 as was required by the Notice of Allowance mailed September 25, 2007. This application therefore became abandoned on December 27, 2007. Accordingly, a Notice of Abandonment was mailed January 24, 2008.

The file record discloses that the Notice of Allowance was mailed to the address of record, the same address to which the Notice of Abandonment was mailed and received. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the file jacket and docket records revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

Since the issue fee was tendered on March 24, 2008, this matter is being referred to the Publishing Division to be processed into a Patent. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions